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February 3, 2006

VIA ECF DELIVERY

Hon. Nancy Gertner
United States District Judge
District of Massachusetts
John Joseph Moakley Courthouse
1 Courthouse Way
Boston, MA 02210

Re: *In re: Biopure Securities Litigation*, No: 03-12628-NG

Dear Judge Gertner:

At the conclusion of yesterday's hearing in the above-referenced action the question was raised as to whether, under the automatic stay provisions of the PSLRA, discovery can commence against Defendants whose motions to dismiss have been denied, if motions to dismiss of other Defendants are still pending.

I write to advise your Honor that Judge Saris, of this Court, faced and decided this precise issue in *In re Lernout & Hauspie Securities Litigation*, 214 F.Supp.2d 100 (D. Mass. Saris, J., 2002), a copy of which is enclosed for your convenience. Judge Saris framed the question as follows:

In a class action against multiple defendants, does the PSLRA stay discovery against a defendant whose motion to dismiss has been denied during the pendency of other defendants' motions to dismiss?

Id. at 102.

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Judge Saris, after discussing the Congressional intent in enacting the PSLRA discovery stay, answered that question in the negative, holding as follows:

I conclude that allowing limited discovery to proceed against the four senior officers [whose motions to dismiss had been denied] is consistent with the intent of the stay provision.

Id. at 106.

This decision demonstrates that your Honor has the power and discretion to order the Defendant Biopure and all other applicable Individual Defendants to produce the documents described on page 2, paragraph 2(a) - (c), of Plaintiffs' Reply Memorandum in Support of Plaintiffs' Motion to Lift the Automatic Stay of Discovery (Docket No. 95), upon the granting by the Court of Plaintiffs' Motion for Leave to Amend the Complaint (Docket No. 82).

Respectfully,

/s/ Edward F. Haber
Edward F. Haber

cc: All Counsel of Record (via ECF service)

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified in the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 3, 2006.

/s/ Edward F. Haber
Edward F. Haber